THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.26713 of 2006

Dated:22.12.2006

BETWEEN:

Bayana Bhanu Mydhily.

… Petitioner

and

The Govt.of A.P., and another.

… Respondent

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.26713 of 2006

ORDER:

The petitioner alleges that she is the owner of Plot bearing No.21 situated in Revenue Ward No.16 of Machavaram, Vijayawada. She alleges that the original document of this property bearing Document No.1615/1991 was provided as collateral security to Bank of India, Guntur, under equitable mortgage and the said Bank initiated proceedings before the Debt Recovery Tribunal, Andhra Pradesh. It is the case of the petitioner that the daughter of the second respondent, who is an I.A.S.Officer, approached her to purchase the property in the name of the second respondent, and the second respondent entered into a Memorandum of Understanding on 06.09.2006 at Visakhapatnam at the Tribunal. It is also alleged that the sale consideration was agreed for Rs.41 lakhs and in the sale deed bearing Document No.3321/2006 dated 25.09.2006, the second respondent intended to show only Rs.31 lakhs and executed an affidavit having knowledge of the prior agreement of sale holder. As per the covenants in the sale deed, the purchaser shall obtain the original link documents from the Bank by paying Rs.10 lakhs, but the second respondent requested the petitioner to collect the documents and promised to pay the amount later. The petitioner collected the documents, but she alleges that the second respondent failed to pay the amount to her, instead, lodged a complaint with the Police using her daughter's

position, and played fraud.

The petitioner intended to cancel the sale deed bearing document No.3321/2006, dated 25.09.2006, as the consideration was not paid to her and a fraud was played by the second respondent, but the first respondent refused to receive the cancellation and requested the petitioner to make a representation, and the same was rejected vide order dated 12.12.2006, aggrieved by which, the present Writ Petition is filed seeking a writ of mandamus declaring the action of the first respondent in not receiving and registering the cancellation deed as illegal and arbitrary.

After hearing the learned Counsel for the petitioner and the learned Assistant Government Pleader for Revenue (General-A), this Court is of considered opinion that a Writ Petition is not maintainable. A direction to the registering authority to cancel a registered document registered earlier cannot be granted. In **Property Association of Baptist Churches v. Sub Registrar, Jangoan**[1], this Court considered this question. After referring to the provisions of Part-XI of the Registration Act, 1908, as well as Rule 58 of the Andhra Pradesh Rules under the Registration Act, 1908, this Court observed as under.

> A reading of the above provisions would show that the power of the registering officer is limited to enquire into the validity of the document brought to him for registration or to enquiry into any written or verbal protest against the registration of a document based on the ground that the executing party has no right to execute the document. The limited power of the registering officer to enquire into objections that the executing party had no right to execute document get extinguished the moment the document is registered. No such power inheres in the registering officer or the District Registrar to cancel the sale deed, unless another document for cancellation is presented with proper stamp duty and registration charges. A party aggrieved by a registered document on conveyance has to file civil suit seeking appropriate declaration under Section 34 of the Specific Relief Act, read with Article 59 of the Schedule under the Limitation Act 1963 (Act 36 of 1963). The Writ Petition is not a proper remedy.

The judgment in **Property Association of Baptist Churches v. Sub Registrar, Jangoan** (supra), was approved by the Division Bench in W.A.No.1486 of 2004 dated 11.10.2004, which was noticed by a Full Bench of this Court in **Yanala Malleshwari v. Ananthula Sayamma**[2]. Therefore, this Writ Petition is misconceived. If so

advised, the petitioner may file appropriate suit seeking declaration under Section 34 of the Specific Relief Act, 1963. In this Writ Petition no relief can be granted.

The Writ Petition is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

22.12.2006
vs

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[1] 2004(1) ALT 174

[2] 2006(6) ALT 523 (F.B)